

services offered or supplied by a competing seller. This defense is available with respect to payments or services offered on an area-wide basis, to those offered to new as well as old customers, and regardless of whether the discrimination has been caused by a decrease or an increase in the payments or services offered. A seller must reasonably believe that its offers are necessary to meet a competitor's offer.

§ 240.15 Cost justification.

It is no defense to a charge of unlawful discrimination in the payment of an allowance or the furnishing of a service for a seller to show that such payment or service could be justified through savings in the cost of manufacture, sale or delivery.

PART 241—GUIDES FOR THE DOG AND CAT FOOD INDUSTRY

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AUTHORITY: 38 Stat. 717, as amended; 15 U.S.C. 41–58.

SOURCE: 34 FR 3619, Feb. 28, 1969, unless otherwise noted.

§ 241.1 Definitions.

For the purpose of this part the following definitions shall apply:

(a) *Industry product* means a food for dogs or cats and includes all types of dry, semimoist, frozen, canned, and other commercial foods manufactured or marketed for consumption by domesticated dogs or cats. The term also includes special *candy* for such dogs and cats but does not include animal medicines or remedies.

(b) *Industry member* means a person, firm, corporation, or organization engaged in the importation, manufacture, sale or distribution of an industry product.

(c) *Ingredients* are the constituent materials making up a food for dogs or cats. Except as otherwise prescribed in this part the names and definitions of ingredients adopted by the Association of American Feed Control Officials will be used in the administration of this part, except that with respect to products which have been certified by the Department of Agriculture under the provisions of 9 CFR 355.1–355.42, the definitions set forth in those regulations will be used. [Guide 1]

§ 241.2 Misuse of terms.

Industry products and their respective ingredients should be identified and designated in accordance with the provisions of paragraph (c) of § 241.1 of this part, or if no name or definition has been established for an ingredient, it should be designated or identified by its common or usual name. The names of ingredients should not be used in advertising, labeling, brand or trade name, or otherwise, so as to misrepresent directly or by implication the identity of an ingredient or the composition of an industry product. [Guide 2]

§ 241.3 Misrepresentation in general.

Industry members should not use or cause or promote the use of any promotional materials, advertising, labels, insignia, brand or trade names which have the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers:

(a) With respect to the composition, substance, content, identity, quantity, appearance, consistency, form, shape, color, flavor, cost, value, origin, grade,